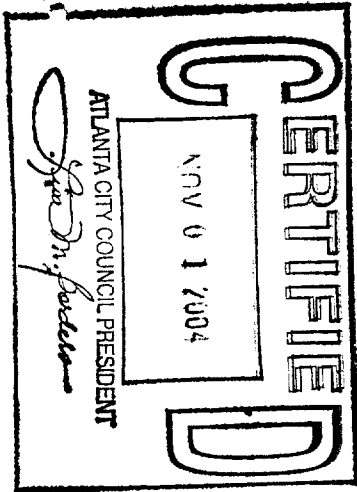


Entered - 08/14/03 - sb  
CL03L0652 - DIANNE C. MITCHELL

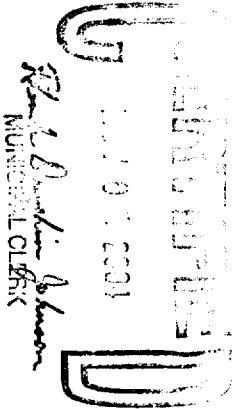


CLAIM OF: **PATRICK KELLY,**  
through his attorney,  
**Richard S. Alembik**  
**315 West Ponce de Leon Avenue**  
**Suite 1000**  
**Decatur, Georgia 30030-2487**

**04- R-1162**

For damages alleged to have been sustained as a result of property  
damage to 320 Cherokee Place due to the construction of a house at  
605 Grant Street on April 18, 2003.

THIS ADVERSED REPORT IS APPROVED



BY: \_\_\_\_\_  
**JERRY L. DELOACH**  
**DEPUTY CITY ATTORNEY**

*Held - 6/29/04*  
**ADVERSE REPORT**

**PUBLIC SAFETY &**

**LEGAL ADMINISTRATION COMMITTEE**

DATE: *6/29/04*

CHAIR: *H. L. Still*

*Vernell Mackey*

*Mary Woodward*

*City Clerk*

*John Smith*

*Carla Smith*

*Clara Winslow*

**ADVERSED BY**  
**CITY COUNCIL**  
**NOV 01 2004**

*Alvante*

*10/26/04*

*H. L. Still*

*John Smith*

*Carla Smith*

*Clara Winslow*



**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK**

November 9, 2004

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30303  
(404) 330-6033  
FAX (404) 658-6273

Richard S. Alembik  
Attorney at Law  
315 West Ponce de Leon Ave.  
Suite 1000  
Decatur, GA 30030-2487

**04-R-1162**

**RE: Patrick Kelly**

Dear Attorney Alembik:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on November 01, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. **03L0652**

Date: **June 11, 2004**

Claimant /Victim **PATRICK KELLY**

BY: (Atty.) **Richard S. Alembik**

Address: **315 West Ponce de Leon Avenue, Suite 1000, Decatur, Georgia 30030-2487**

Subrogation: ☐ Claim for Property damage \$ **20,624.50**

Bodily Injury \$

Date of Notice: **08/14/03**

Method: Written, proper ☒

Improper ☐

Conforms to Notice: O.C.G.A. §36-33-5 ☒

Ante Litem (6 Mo.) ☒

Date of Occurrence **04/18/03**

Place: **320 Cherokee Place**

Department **Planning**

Bureau: **Buildings**

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant alleges that his property has been damaged due to water runoff because of the construction of a residence at 605 Grant Street and that the City should not have granted a right of occupancy for the residence. However, the City is immune from liability as set forth in O.C.G.A. §36-33-1.

### INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report \_\_\_\_\_ Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

### BASIS OF RECOMMENDATION:

Function: Governmental ☒ Ministerial \_\_\_\_\_

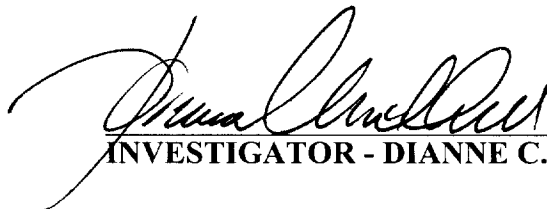
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other ☒ Damages reasonable \_\_\_\_\_

City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_

Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,



INVESTIGATOR - DIANNE C. MITCHELL

### RECOMMENDATION:

Pay \$ \_\_\_\_\_ Adverse ☒ Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_ 2P01 \_\_\_\_\_

Claims Manager:  Concur/date **06/11/04**

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

RCS# 6199  
11/01/04  
1:42 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 3-15

ADOPT

YEAS: 11  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 3

Y Smith	B Archibong	Y Moore	Y Mitchell
Y Starnes	B Fauver	B Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	NV Sheperd	NV Borders

CONSENT I

		11-01-04 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSESED ON CONSENT
1. 04-O-1626 2. 04-O-1795 3. 04-O-1796 4. 04-O-1828 5. 04-O-1819 6. 04-O-1929 7. 04-O-1758 8. 04-O-1932 9. 04-O-1430 10. 04-O-1926 11. 04-O-1885 12. 04-O-1937 13. 04-O-1941 14. 04-R-1893 15. 04-R-1894 16. 04-R-1895 17. 04-R-1916 18. 04-R-1917 19. 04-R-1918 20. 04-R-1920 21. 04-R-1896 22. 04-R-1897 23. 04-R-1898 24. 04-R-1899 25. 04-R-1930 26. 04-R-1884 27. 04-R-1886 28. 04-R-1888 29. 04-R-1889 30. 04-R-1890 31. 04-R-1891 32. 04-R-1928 33. 04-R-1938 34. 04-R-1870 35. 04-R-1871 36. 04-R-1874 37. 04-R-1945	38. 04-R-1878 39. 04-R-1940 40. 04-R-1908 41. 04-R-1909 42. 04-R-1910 43. 04-R-1911 44. 04-R-1912 45. 04-R-1913 46. 04-R-1914 47. 04-R-1915	48. 04-R-1162 49. 04-R-1172 50. 04-R-1178 51. 04-R-1782 52. 04-R-1900 53. 04-R-1901 54. 04-R-1902 55. 04-R-1903 56. 04-R-1904 57. 04-R-1905 58. 04-R-1906 59. 04-R-1907